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January 9, 2020

**VIA CERTIFIED AND ELECTRONIC MAIL**

National FOIA Office  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2310A)  
Washington, DC 20460  
(202) 566-1667  
hq.foia@epa.gov

**Re: Freedom of Information Act Request**

To Whom It May Concern,

This is a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, for records within the control of your agency related to EPA's permitting processes under the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251–1387, as amended, for several dams along the Columbia River. I am making this request on behalf of Columbia Riverkeeper ("Riverkeeper"). Pursuant to FOIA, please send me copies of any records pertaining to this request.

Riverkeeper is a 501(c)(3) non-profit organization committed to protecting and restoring the Columbia River and all life connected to it, from the headwaters to the Pacific. To achieve these objectives, Riverkeeper operates scientific, educational, and advocacy programs aimed at protecting water quality, habitat, and salmon in the Columbia Basin. Riverkeeper submits the following FOIA request to inform the public and to advance its mission of protecting and restoring the Columbia River, whose salmon population's migration, survival, and recovery is directly threatened by the dams along the Columbia River.

This request concerns all records within the United States Environmental Protection Agency's ("EPA") custody or control generated, modified, sent and/or received since January 1, 2013, related to the National Pollution Discharge Elimination System ("NPDES")<sup>1</sup> permitting process and/or the certification<sup>2</sup> process for any and/or all of the following dams: Chief Joseph Dam, Grand Coulee Dam, Bonneville Dam, John Day Dam, McNary Dam, Dalles Dam, Ice Harbor Dam,

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<sup>1</sup> See 33 U.S.C. § 1342.

<sup>2</sup> See 33 U.S.C. § 1341.

Lower Monumental Dam, Little Goose Dam, and Lower Granite Dam. Specifically, this request includes, but is not limited to, the following:

- Communications between EPA and the U.S. Army Corps of Engineers;
- Communications between EPA and Washington State Department of Ecology (“Ecology”);
- Communications between EPA and the United States Bureau of Reclamation;
- NPDES permit applications and any drafts thereof;
- NPDES permits and any drafts thereof;
- Certification applications/requests and any drafts thereof;
- Certifications and any drafts thereof; and
- Internal EPA memoranda, notes, and communications.

In referring to the “NPDES permitting process,” Riverkeeper means all processes related to permitting a facility under section 402 of the CWA, including preparing and submitting an NPDES permit application and related materials, evaluating NPDES permit requirements, and preparing a fact sheet and an NPDES permit. In referring to the “certification process,” Riverkeeper means all processes related to certifying a facility under section 401 of the CWA, including preparing and submitting a certification application and related materials, evaluating certification requirements, and preparing a certification.

### **Scope**

If EPA believes that the responsive records are readily available online, please list the record title in your response so that Riverkeeper can confirm that it does in fact have, or have access to, the document. In the event that EPA denies access to any of the records, please note that FOIA provides that, if only portions of a file are exempted from release, the remainder of the file must still be released. Riverkeeper therefore requests that EPA provide it with all non-exempt portions of its request that are reasonably segregated from exempt portions. Riverkeeper further requests that EPA describe any deleted material in detail and specify the basis and justification for the denial.

### **Timing**

Under FOIA, the agency must make a determination on this request within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). A determination requires the agency to gather and review the documents, determine and communicate the scope of documents it intends to produce and withhold, and the reasons for withholding any documents, and inform Riverkeeper of its appeal rights.

### **Format**

Riverkeeper requests that EPA provide copies of the requested records in the format of a CD, DVD, or flash drive, rather than or in addition to the FOIAonline, pursuant to 5 U.S.C. § 552(a)(3)(B). Where appropriate and possible, please provide electronic documents in text searchable .pdf, .txt, .doc, .docx, .rtf, .xls, or .xlsx form.



## Fees

Riverkeeper requests that EPA waive any applicable fees related to this request, including document search and duplication costs. Riverkeeper is a non-profit organization and does not have a commercial interest in the requested information. 5 U.S.C. § 552(a)(4)(A)(iii). The organization's interest in requesting these documents is to further its mission to protect and restore the water quality of the Columbia River and all life connected to it, and to educate their members, other stakeholder organizations, and the general public on the management of dams along the Columbia River.

The requested information is likely to contribute significantly to public understanding of the operations or activities of the government for several reasons. *See* 40 C.F.R. § 2.107(l)(1). First, the subject of the request concerns the "operations or activities of the government." *Id.* § 2.107(l)(2)(i). Specifically, the request concerns EPA's permitting process of several federally-operated dams along the Columbia River.

Second, the records have significant informative value and are "likely to contribute" to an understanding of government operations or activities. *Id.* § 2.107(l)(2)(ii). The records will help the public understand the CWA permitting process for dams and disclosure will allow the public and watchdog organizations to ensure federal and state compliance with environmental protection statutes. To the best of Riverkeeper's understanding, this information is not in the public domain, and the public currently does not have an understanding of EPA's permitting of federally-operated dams along the Columbia River.

The NPDES and certification processes for federally-operated dams along the Columbia and Snake Rivers has not been transparent thus far. Specifically, in fall 2018, EPA requested preliminary certification for several of the dams listed above. After Ecology requested additional time to complete its review and indicated to EPA that any certification would require the dams to meet water quality standards, in February 2019, EPA withdrew its request for certification for those dams. Ecology confirmed that EPA would re-issue new requests for certification at a later date, and Ecology clarified that, to the extent EPA did not plan to re-issue requests, Ecology denied any certification. This process surprised Ecology, Riverkeeper, members of the press, and the community. For EPA's convenience, Riverkeeper is attaching correspondence and information related to the permitting process thus far. Riverkeeper's submits this FOIA request to shed light on, and hopefully clarify, the federal agencies' operations and activities around permitting federally-operated dams along the Columbia River. Riverkeeper believes the information provided herein and attached demonstrates the public interest need for obtaining the records at issue.

Third, the disclosure will contribute to an understanding of the subject by the public. *Id.* § 2.107(l)(2)(iii). Riverkeeper has expertise and experience in disseminating this type of information obtained through FOIA and other public records requests. Riverkeeper's request is of interest to its 16,000 members and other members of the public that use and depend on the Columbia River for food, recreation, and more. Presenting such information to the public is a central focus of Riverkeeper's organization. Riverkeeper presents information to the public

through its website, newsletters, enewsletters, public action alerts, public reports, media, and public presentations. For example, Riverkeeper regularly presents information on Columbia River issues—including salmon habitat conservation and the impacts of dams on the Columbia River and species that depend on it—at elementary and high schools, community colleges, public meetings, at Riverkeeper public events, and in front of government bodies. Specifically, Riverkeeper has disseminated information gained through past FOIA requests to EPA regarding this facility to its members and the general public through Riverkeeper’s website, e-newsletter, and print newsletter.

Fourth, disclosure is likely to contribute “significantly” to public understanding of government operations or activities. *Id.* § 2.107(l)(2)(iv). Specifically, the public currently does not have an understanding of where EPA is in its permitting process of federally-operated dams along the Columbia River. This request will help the public understand many important aspects of the process. For example, Columbia Riverkeeper will use the information obtained through this request to inform the public how far along EPA is in the process, how much EPA is coordinating with state and federal agencies throughout the permitting process, and what sort of considerations EPA is evaluating as it works through the process. All of this information is currently unavailable to the public, and this request will therefore enhance the public’s understanding of this issue to a significant extent.

The requested information is not primarily in the commercial interest of the requester. *Id.* § 2.107(l)(1). As a 501(c)(3) nonprofit organization, Riverkeeper has no commercial interest in this matter. *Id.* § 2.107(l)(3)(i). Rather, Riverkeeper’s primary interest in this information is to further the public’s interest in protecting and restoring the Columbia River and the public’s understanding of the issues surrounding federally-operated dams along the Columbia River. As provided above, Riverkeeper will disseminate this information in a variety of ways, all of which are free to the public and provide no commercial gains to Riverkeeper.

In the event that EPA does not grant Riverkeeper’s requested fee waiver, please contact me **BEFORE** incurring any costs in response to this FOIA request. If there are any questions regarding this request, please do not hesitate to contact me at the email address or phone number listed below.

If you have any questions regarding this request, please do not hesitate to contact me at the email address or phone number listed below. Thank you for your time and consideration.

Sincerely,



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Emma Bruden  
Kampmeier & Knutsen, PLLC  
221 SE 11th Avenue, Suite 217  
Portland, OR 97214  
emma@kampmeierknutsen.com  
Tel: (503) 719-5641

# Attachments





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

OFFICE OF  
WATER AND WATERSHEDS

OCT 19 2018

Ms. Heather R. Bartlett  
Water Quality Program Manager  
Department of Ecology  
PO Box 47600  
Olympia, Washington 98504-7600

Re: Request for Clean Water Act Section 401 Certification of NPDES Draft Individual Permits for Federal Hydroelectric Generating Facilities on the Columbia River and Lower Snake River in Washington

Dear Ms. Bartlett:

Thank you for your letter of October 12, 2018, responding to the U.S. Environmental Protection Agency's request for Washington Department of Ecology's preliminary draft Clean Water Act (CWA) Section 401 Certifications of NPDES Draft Individual Permits for Hydroelectric Generating Facilities on the Columbia River and Lower Snake River. As you requested in your letter, the EPA and Ecology have a meeting scheduled on Wednesday, October 24, 2018, to discuss the EPA's request. We look forward to discussing the permit actions as well as the interplay of the NPDES permits and other federal actions occurring on the Columbia River and Lower Snake River. In the meantime, we are clarifying our request for CWA 401 certifications of these permits.

We are requesting CWA 401 certification of the following permits:

Ice Harbor Lock and Dam, NPDES Permit No. WA0026816  
Lower Monumental Lock and Dam, NPDES Permit No. WA0026808  
Little Goose Lock and Dam, NPDES Permit No. WA0026786  
Lower Granite Lock and Dam, NPDES Permit No. WA0026794  
Bonneville Project, NPDES Permit No. WA0026778  
The Dalles Lock and Dam, NPDES Permit No. WA0026701  
John Day Project, NPDES Permit No. WA0026832  
McNary Lock and Dam, NPDES Permit No. WA0026824  
Grand Coulee Dam, NPDES Permit No. WA0026867

We have enclosed copies of the Draft Permits and Fact Sheets for your use in completing the certifications. We request that your certifications follow the federal regulations governing state certification at 40 CFR §124.53(e). The regulations allow for the State to stipulate more stringent conditions in the permit, if the certifications cite the Clean Water Act or State law references upon which that condition is based. In addition, the regulations require the certification to include statements for each condition of the permit that can be made less stringent without violating requirements of State law.

Final action on these permits cannot be taken until your agency has granted or denied certification under 40 CFR §124.55, or waived its right to certify. Pursuant to 40 CFR §124.53(c)(3), the State will be

deemed to have waived its right to certify unless that right is exercised within 60 days of the receipt of the Draft Permits, i.e., by December 18, 2018. We understand that you may have concerns with meeting this schedule, which we can further discuss at the meeting on October 24<sup>th</sup>.

Since these Draft Permits are not intended for review outside of Ecology, we appreciate your discretion in retaining them within the department. If you have any questions, please feel free to call me at (206) 553-1855, or have your staff contact Jenny Wu of my staff at (206) 553-6328, or (800) 424-4372 ext. 6328 or by email at [wu.Jennifer@epa.gov](mailto:wu.Jennifer@epa.gov). We look forward to your CWA 401 certifications and our meeting next week.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daniel D. Opalski".

Daniel D. Opalski  
Director

Enclosures

cc: Mr. Vince McGowan, Washington Department of Ecology (via email)  
Ms. Ellie Ott, Washington Department of Ecology (via email)



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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December 7, 2018

Daniel Opalski  
Director  
Office of Water and Watersheds  
US Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

Re: October 19, 2018 letter seeking 401 certification of Draft Individual Permits for  
Federal Hydroelectric Generating Facilities on the Columbia and Lower Snake River

Dear Mr. Opalski:

Thank you for your staff's time explaining the deadlines you are working under to address your National Pollutant Discharge Elimination System (NPDES) backlog. The meeting was helpful for us, and while we continue to believe your federal regulations, 40 CFR 124.53, regarding timing and process for state 401 certifications is inconsistent with the federal Clean Water Act, we think it is important to work cooperatively with you on this work. For that reason, we would like to request a time extension for the 401 certifications for the Federal Hydroelectric Generating Facilities identified in your October 19 letter.

At this meeting, your staff discussed the possibility of allowing a time extension under your regulations. We are requesting a 45-day extension to February 1, 2019 from the December 18, 2018 date you identified in your letter as our deadline. Your letter requests certification for nine federal hydroelectric generating facilities and the Washington State Department of Ecology (Ecology) needs additional time to complete this significant and unexpected work. Our work is further complicated by several ongoing efforts on the Columbia and Snake Rivers that will impact the certifications you have requested; the negotiations for the federal Biological Opinion for the Federal Columbia River Power System (FCRPS) and the temperature total maximum daily load (TMDL) that your agency is doing for the Columbia and Snake Rivers.

Our hope is that this period of time will allow you to issue your TMDL, allow Ecology to better understand the federal biological opinion settlement, and work with you and the federal agencies that operate the nine facilities so Ecology can issue 401 certifications that are workable for the





Daniel Opalski  
December 7, 2018  
Page 2

federal agencies while also protecting Washington's waters. I also want to be clear that Washington is not waiving our 401-certification authority and we have no desire to do so. I look forward to hearing back from you regarding the 45-day extension.

Sincerely,

A handwritten signature in blue ink that reads "Heather R. Bartlett". The signature is fluid and cursive, with the first name "Heather" being more prominent than the last name "Bartlett".

Heather R. Bartlett  
Water Quality Program Manager



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

OFFICE OF  
WATER AND WATERSHEDS

DEC 14 2018

Ms. Heather Bartlett  
Water Quality Program Manager  
Washington Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

Re: Request for Clean Water Act section 401 extension on National Pollutant Discharge Elimination System (NPDES) permits for Washington federal hydroelectric generating facilities on the Lower Columbia and Lower Snake Rivers

Dear Ms. Bartlett:

The Environmental Protection Agency received the Washington Department of Ecology's (Ecology) letter on December 7, 2018, requesting additional time for the Clean Water Act section 401 certification on preliminary draft NPDES permits for the Washington federal hydroelectric generating facilities on the Lower Columbia and Lower Snake Rivers. The letter also describes the uncertainty of pending actions that could affect the permits and requests that Ecology be given until February 1, 2019, to complete a Clean Water Act section 401 certification.

The EPA agrees that several processes are occurring that warrant additional time for the Clean Water Act section 401 certification from Ecology. Therefore, the EPA is granting Ecology's request for an extension until February 1, 2019.

Please do not hesitate to call me at (206) 553-1855, or have your staff contact Jenny Wu, of my staff, at (206) 553-6328 or by email at [Wu.Jennifer@epa.gov](mailto:Wu.Jennifer@epa.gov) if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "Daniel D. Opalski", is written over a printed name and title.

Daniel D. Opalski *for*  
Director

cc: Ms. Melissa Gildersleeve, Ecology  
Mr. Vince McGowan, Ecology  
Ms. Ellie Ott, Ecology



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

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February 5, 2019

Dan Opalski, Director  
Office of Water and Watersheds  
U.S.EPA Region 10  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

Re: Withdrawal of Request for Clean Water Act Section 401 Certification of Draft Permits  
for Federal Hydroelectric Generating Facilities on the Columbia and Snake Rivers

Dear Dan Opalski:

This letter is in response to your February 1, 2019 letter withdrawing your request for Washington State Department of Ecology (Ecology) Clean Water Act (CWA) Section 401 certifications for the following draft National Pollutant Discharge Elimination System (NPDES) permits:

- Ice Harbor Lock and Dam, NPDES Permit No. WA0026816
- Lower Monumental Lock and Dam, NPDES Permit No. WA0026808
- Little Goose Lock and Dam, NPDES Permit No. WA0026786
- Lower Granite Lock and Dam, NPDES Permit No. WA0026794
- Bonneville Project, NPDES Permit No. WA0026778
- The Dalles Lock and Dam, NPDES Permit No. WA0026701
- John Day Project, NPDES Permit No. WA0026832
- McNary Lock and Dam, NPDES Permit No. WA0026824
- Grand Coulee Dam, NPDES Permit No. WA0026867

Ecology seeks to understand the reason for U.S. Environmental Protection Agency's (EPA) withdrawal, as federally-issued NPDES permits require Section 401 certification and must meet all federal and state water quality standards. Ecology and EPA have had routine communication on the draft permits as Ecology works towards a decision on EPA's request. Has EPA decided not to issue the above-referenced permits? Your letter references a potential "renewed request for water quality certification." When does EPA anticipate making this renewed request?





Dan Opalski  
February 5, 2019  
Page 2

This letter is **not** to be considered a decision or waiver of Washington State's 401 certification authority.

As you are aware, Ecology public noticed the request for 401 certification of the nine draft NPDES permits on January 30, 2019 for a 20-day comment period ending at midnight on February 19, 2019. We intend to complete our public notice process.

You requested that Ecology return all materials provided with your certification requests. Please explain why you are requesting a return of these materials. As public stewards, we have a responsibility to maintain copies of the materials you submitted to us for public records purposes. Therefore, we will maintain copies of all materials provided with your certification request.

Sincerely,



Heather R. Bartlett  
Water Quality Program Manager

Enclosures

#### **401 Certification Timeline for Nine Federal Dams**

- September 19, 2018 – EPA first requests preliminary certification for:
  - Bonneville Project, NPDES Permit No. WA0026778
  - The Dalles Lock and Dam, NPDES Permit No. WA0026701
  - John Day Project, NPDES Permit No. WA0026832
  - McNary Lock and Dam, NPDES Permit No. WA0026824
- September 20, 2018 – EPA first requests preliminary certification for:
  - Ice Harbor Lock and Dam, NPDES Permit No. WA0026816
  - Lower Monumental Lock and Dam, NPDES Permit No. WA0026808
  - Little Goose Lock and Dam, NPDES Permit No. WA0026786
  - Lower Granite Lock and Dam, NPDES Permit No. WA0026794
- October 4, 2018 – EPA first requests preliminary certification for:
  - Grand Coulee Dam, NPDES Permit No. WA0026867
- October 12, 2018 – Ecology requests more time to complete review.
- October 19, 2018 – EPA responds with request for certification by December 18, 2019.
- October 24, 2018 – EPA and Ecology staff meet to discuss request.
- December 7, 2018 – Ecology requests a 45-day extension.
- December 14, 2018 – EPA extends certification deadline to February 1, 2019.
- December 28, 2018 – EPA furloughs staff starting at midnight due to the federal government shutdown.
- January 25, 2019 – Ecology Director Bellon requests an extension to allow Ecology time to complete state public notice processes.
- January 25, 2019 – Regional Administrator Hladick indicates support for time extension.
- January 28, 2019 – EPA staff return to work and grant extension to February 28, 2019.
- January 30, 2019 – Ecology public notices the request for 401 certification for a 20-day comment period ending at midnight on February 19, 2019.
- February 1, 2019 – EPA withdraws request for 401 certification.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

OFFICE OF  
WATER AND WATERSHEDS

DEPARTMENT OF ECOLOGY

SEP 24 2018

WATER QUALITY PROGRAM

Reply to  
Attn of: OWW-191

Mr. Vince McGowan  
Program Development Services Manager  
Washington Department of Ecology  
300 Desmond Drive SE  
Lacey, Washington 98503

Re: Request for Preliminary Clean Water Act Section 401 Certifications of NPDES Draft Permits for  
Bonneville Project, NPDES Permit No. WA0026778  
The Dalles Lock and Dam, NPDES Permit No. WA0026701  
John Day Project, NPDES Permit No. WA0026832  
McNary Lock and Dam, NPDES Permit No. WA0026824

Dear Mr. McGowan:

Enclosed are preliminary drafts of the National Pollutant Discharge Elimination System (NPDES) permits for the Bonneville Project, The Dalles Lock and Dam, John Day Project, and McNary Lock and Dam. These permits are covered under the fact sheet for the United States Army Corps of Engineers (USACE) Lower Columbia River Hydroelectric Generating Facilities.

We are asking for the Washington Department of Ecology (Ecology) to review and provide preliminary Clean Water Act (CWA) Section 401 Certifications for these permit actions. If we receive the certifications prior to public notice of the permits, we will include a reference to the State's certification in the public notice along with a copy of the certifications in the fact sheet. The public notice of the permits may also fulfill the Ecology's public notice requirements for certification under CWA Section 401(a)(1). If possible, we would appreciate a response within 30 days.

Since these preliminary drafts are not intended for review outside of Ecology, we appreciate your discretion in retaining them within the department.

If you have any questions, please contact Jenny Wu at 206-553-6328 or 1-800-424-4372 ext. 6328 or Wu.Jennifer@epa.gov. We look forward to your comments on these draft permits.

Sincerely,

Michael J. Lidgard, Manager  
NPDES Permits Unit

Enclosures

cc: Ellie Key, Washington Department of Ecology (via email)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

OFFICE OF  
WATER AND WATERSHEDS

DEPARTMENT OF ECOLOGY

SEP 28 2018

WATER QUALITY PROGRAM

Reply to Attn of: OWW-191

Mr. Vince McGowan  
Program Development Services Manager  
Washington Department of Ecology  
300 Desmond Drive SE  
Lacey, Washington 98503

Re: Request for Preliminary Clean Water Act Section 401 Certifications of NPDES Draft Permits for  
Ice Harbor Lock and Dam, NPDES Permit No. WA0026816  
Lower Monumental Lock and Dam, NPDES Permit No. WA0026808  
Little Goose Lock and Dam, NPDES Permit No. WA0026786  
Lower Granite Lock and Dam, NPDES Permit No. WA0026794

Dear Mr. McGowan:

Enclosed are preliminary drafts of the National Pollutant Discharge Elimination System (NPDES) Permits for the Ice Harbor Lock and Dam, Lower Monumental Lock and Dam, Little Goose Lock and Dam, and Lower Granite Lock and Dam. These permits are covered under the fact sheet for the United States Army Corps of Engineers (USACE) Lower Snake River Hydroelectric Generating Facilities.

We are asking for the Washington Department of Ecology (Ecology) to review and provide preliminary Clean Water Act (CWA) Section 401 Certifications for these permit actions. If we receive the certification prior to public notice of the permits, we will include a reference to the State's certifications in the public notice along with a copy of the certifications in the fact sheet. The public notice of the permits may also fulfill the Ecology's public notice requirements for certification under CWA Section 401(a)(1). If possible, we would appreciate a response within 30 days.

Since these preliminary drafts are not intended for review outside of Ecology, we appreciate your discretion in retaining them within the department.

If you have any questions, please contact Jenny Wu at 206-553-6328 or 1-800-424-4372 ext. 6328 or [wu.jennifer@epa.gov](mailto:wu.jennifer@epa.gov). We look forward to your comments on these draft permits.

Sincerely,

Michael J. Lidgard, Manager  
NPDES Permits Unit

Enclosures

cc: Ellie Key, Washington Department of Ecology (via email)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

OFFICE OF  
WATER AND WATERSHEDS

OCT 4 2018

DEPARTMENT OF ECOLOGY

OCT 11 2018

WATER QUALITY PROGRAM

Reply to  
Attn of: OWW-191

Mr. Vince McGowan  
Program Development Services Manager  
Washington Department of Ecology  
300 Desmond Drive SE  
Lacey, Washington 98503

Re: Request for Preliminary Clean Water Act Section 401 Certification of NPDES Draft Permit for  
Grand Coulee Dam, NPDES Permit No. WA0026867

Dear Mr. McGowan:

Enclosed is a preliminary draft of the National Pollutant Discharge Elimination System (NPDES) permit plus a fact sheet for the Grand Coulee Dam.

We are asking for the Washington Department of Ecology to review and provide a preliminary Clean Water Act (CWA) Section 401 Certification for this permit action. If we receive the certification prior to public notice of the permit, we will include a reference to the State's certification in the public notice along with a copy of the certification in the fact sheet. The public notice of the permit may also fulfill Ecology's public notice requirements for certification under CWA Section 401(a)(1). If possible, we would appreciate a response within 30 days.

Since this preliminary draft is not intended for review outside of Ecology, we appreciate your discretion in retaining it within the department.

If you have any questions, please contact Jenny Wu at 206-553-6328 or 1-800-424-4372 ext. 6328, or Wu.Jennifer@epa.gov. We look forward to your comments on this draft permit.

Sincerely,

Michael J. Lidgard, Manager  
NPDES Permits Unit

Enclosures

cc: Ellie Key, Washington Department of Ecology (via email)



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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October 12, 2018

Dan Opalski, Director  
Office of Water and Watersheds, EPA Region 10  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

Re: Section 401 Certifications for Federal Hydroelectric Generating  
Facilities on the Columbia and Lower Snake River

Dear Director Opalski:

This letter is in response to your September 19<sup>th</sup> and 20<sup>th</sup> letters requesting the Washington State Department of Ecology (Ecology) provide preliminary Clean Water Act (CWA) section 401 certifications of the draft National Pollutant Discharge Elimination System (NPDES) permits for these facilities. Specifically the draft NPDES permits for the four federal hydroelectric facilities located on the lower Columbia River and the four federal hydroelectric facilities located on the lower Snake River. We have received email correspondence but no formal letter on the federal Grand Coulee hydroelectric facility on the Columbia River.

There are a number of concurrent processes underway with regards to the federal hydropower system and this request comes in advance of the completion of those processes. It would be helpful to understand the linkage of these permits to these other processes. We would like to meet with EPA to discuss further. Ideally, we could get more background information and a better understanding of these permits and your schedule.

Your letters requested a response within 30 days. We will require time to complete our review process and provide a section 401 certification decision. Section 401(a)(1) of the Clean Water Act, provides states up to one year to act on a request for section 401 certification. This letter is not to be considered our decision or a waiver of Washington State's 401 certification authority. If you are unable to accommodate our need for additional time to complete our review process, we will need to deny section 401 certification because we currently do not have sufficient information that will provide reasonable assurance that Washington's water quality standards and other appropriate requirements of state law will be met.

We look forward to discussing this further with you.

Sincerely,

Heather R. Bartlett  
Water Quality Program Manager







UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

OFFICE OF  
WATER AND WATERSHEDS

OCT 19 2018

Ms. Heather R. Bartlett  
Water Quality Program Manager  
Department of Ecology  
PO Box 47600  
Olympia, Washington 98504-7600

Re: Request for Clean Water Act Section 401 Certification of NPDES Draft Individual Permits for Federal Hydroelectric Generating Facilities on the Columbia River and Lower Snake River in Washington

Dear Ms. Bartlett:

Thank you for your letter of October 12, 2018, responding to the U.S. Environmental Protection Agency's request for Washington Department of Ecology's preliminary draft Clean Water Act (CWA) Section 401 Certifications of NPDES Draft Individual Permits for Hydroelectric Generating Facilities on the Columbia River and Lower Snake River. As you requested in your letter, the EPA and Ecology have a meeting scheduled on Wednesday, October 24, 2018, to discuss the EPA's request. We look forward to discussing the permit actions as well as the interplay of the NPDES permits and other federal actions occurring on the Columbia River and Lower Snake River. In the meantime, we are clarifying our request for CWA 401 certifications of these permits.

We are requesting CWA 401 certification of the following permits:

Ice Harbor Lock and Dam, NPDES Permit No. WA0026816  
Lower Monumental Lock and Dam, NPDES Permit No. WA0026808  
Little Goose Lock and Dam, NPDES Permit No. WA0026786  
Lower Granite Lock and Dam, NPDES Permit No. WA0026794  
Bonneville Project, NPDES Permit No. WA0026778  
The Dalles Lock and Dam, NPDES Permit No. WA0026701  
John Day Project, NPDES Permit No. WA0026832  
McNary Lock and Dam, NPDES Permit No. WA0026824  
Grand Coulee Dam, NPDES Permit No. WA0026867

We have enclosed copies of the Draft Permits and Fact Sheets for your use in completing the certifications. We request that your certifications follow the federal regulations governing state certification at 40 CFR §124.53(e). The regulations allow for the State to stipulate more stringent conditions in the permit, if the certifications cite the Clean Water Act or State law references upon which that condition is based. In addition, the regulations require the certification to include statements for each condition of the permit that can be made less stringent without violating requirements of State law.

Final action on these permits cannot be taken until your agency has granted or denied certification under 40 CFR §124.55, or waived its right to certify. Pursuant to 40 CFR §124.53(c)(3), the State will be

deemed to have waived its right to certify unless that right is exercised within 60 days of the receipt of the Draft Permits, i.e., by December 18, 2018. We understand that you may have concerns with meeting this schedule, which we can further discuss at the meeting on October 24<sup>th</sup>.

Since these Draft Permits are not intended for review outside of Ecology, we appreciate your discretion in retaining them within the department. If you have any questions, please feel free to call me at (206) 553-1855, or have your staff contact Jenny Wu of my staff at (206) 553-6328, or (800) 424-4372 ext. 6328 or by email at [wu.Jennifer@epa.gov](mailto:wu.Jennifer@epa.gov). We look forward to your CWA 401 certifications and our meeting next week.

Sincerely,



Daniel D. Opalski  
Director

Enclosures

cc: Mr. Vince McGowan, Washington Department of Ecology (via email)  
Ms. Ellie Ott, Washington Department of Ecology (via email)



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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December 7, 2018

Daniel Opalski  
Director  
Office of Water and Watersheds  
US Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

Re: October 19, 2018 letter seeking 401 certification of Draft Individual Permits for  
Federal Hydroelectric Generating Facilities on the Columbia and Lower Snake River

Dear Mr. Opalski:

Thank you for your staff's time explaining the deadlines you are working under to address your National Pollutant Discharge Elimination System (NPDES) backlog. The meeting was helpful for us, and while we continue to believe your federal regulations, 40 CFR 124.53, regarding timing and process for state 401 certifications is inconsistent with the federal Clean Water Act, we think it is important to work cooperatively with you on this work. For that reason, we would like to request a time extension for the 401 certifications for the Federal Hydroelectric Generating Facilities identified in your October 19 letter.

At this meeting, your staff discussed the possibility of allowing a time extension under your regulations. We are requesting a 45-day extension to February 1, 2019 from the December 18, 2018 date you identified in your letter as our deadline. Your letter requests certification for nine federal hydroelectric generating facilities and the Washington State Department of Ecology (Ecology) needs additional time to complete this significant and unexpected work. Our work is further complicated by several ongoing efforts on the Columbia and Snake Rivers that will impact the certifications you have requested; the negotiations for the federal Biological Opinion for the Federal Columbia River Power System (FCRPS) and the temperature total maximum daily load (TMDL) that your agency is doing for the Columbia and Snake Rivers.

Our hope is that this period of time will allow you to issue your TMDL, allow Ecology to better understand the federal biological opinion settlement, and work with you and the federal agencies that operate the nine facilities so Ecology can issue 401 certifications that are workable for the





Daniel Opalski  
December 7, 2018  
Page 2

federal agencies while also protecting Washington's waters. I also want to be clear that Washington is not waiving our 401-certification authority and we have no desire to do so. I look forward to hearing back from you regarding the 45-day extension.

Sincerely,

A handwritten signature in blue ink that reads "Heather R. Bartlett". The signature is fluid and cursive, with the first name being the most prominent.

Heather R. Bartlett  
Water Quality Program Manager



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

DEPARTMENT OF ECOLOGY

DEC 18 2018

WATER QUALITY PROGRAM  
OFFICE OF  
WATER AND WATERSHEDS

DEC 14 2018

Ms. Heather Bartlett  
Water Quality Program Manager  
Washington Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

Re: Request for Clean Water Act section 401 extension on National Pollutant Discharge Elimination System (NPDES) permits for Washington federal hydroelectric generating facilities on the Lower Columbia and Lower Snake Rivers

Dear Ms. Bartlett:

The Environmental Protection Agency received the Washington Department of Ecology's (Ecology) letter on December 7, 2018, requesting additional time for the Clean Water Act section 401 certification on preliminary draft NPDES permits for the Washington federal hydroelectric generating facilities on the Lower Columbia and Lower Snake Rivers. The letter also describes the uncertainty of pending actions that could affect the permits and requests that Ecology be given until February 1, 2019, to complete a Clean Water Act section 401 certification.

The EPA agrees that several processes are occurring that warrant additional time for the Clean Water Act section 401 certification from Ecology. Therefore, the EPA is granting Ecology's request for an extension until February 1, 2019.

Please do not hesitate to call me at (206) 553-1855, or have your staff contact Jenny Wu, of my staff, at (206) 553-6328 or by email at [Wu.Jennifer@epa.gov](mailto:Wu.Jennifer@epa.gov) if you have any questions.

Sincerely,

Daniel D. Opalski  
Director

cc: Ms. Melissa Gildersleeve, Ecology  
Mr. Vince McGowan, Ecology  
Ms. Ellie Ott, Ecology

**From:** [Bartlett, Heather \(ECY\)](#)  
**To:** [McGowan, Vincent \(ECY\)](#); [Ott, Ellie \(ECY\)](#)  
**Cc:** [Randall, Loree" \(ECY\)](#)  
**Subject:** FW: Extension Request  
**Date:** Monday, February 4, 2019 12:09:15 PM

---

For your records and reference accordingly in response back to EPA per their letter late Friday.  
Thanks. Heather

**From:** Opalski, Dan [mailto:Opalski.Dan@epa.gov]  
**Sent:** Tuesday, January 29, 2019 3:41 PM  
**To:** Bellon, Maia (ECY) <maib461@ECY.WA.GOV>  
**Cc:** Hladick, Christopher <hladick.christopher@epa.gov>; Bartlett, Heather (ECY) <heba461@ECY.WA.GOV>; Edmondson, Lucy <Edmondson.Lucy@epa.gov>  
**Subject:** FW: Extension Request

Maia,

Chris asked that I respond to you on his behalf.

EPA hereby grants your request for additional time through February 28, 2019.

We appreciate your continued thoughtful approach on this matter.

Dan Opalski  
Director, Office of Water and Watersheds

**From:** Hladick, Christopher  
**Sent:** Saturday, January 26, 2019 7:54 AM  
**To:** Opalski, Dan <[Opalski.Dan@epa.gov](mailto:Opalski.Dan@epa.gov)>  
**Subject:** Fwd: Extension Request

Sent from my iPhone

Begin forwarded message:

**From:** "Bellon, Maia (ECY)" <[maib461@ECY.WA.GOV](mailto:maib461@ECY.WA.GOV)>  
**Date:** January 25, 2019 at 1:32:47 PM PST  
**To:** "[hladick.christopher@epa.gov](mailto:hladick.christopher@epa.gov)" <[hladick.christopher@epa.gov](mailto:hladick.christopher@epa.gov)>  
**Subject:** Extension Request

Chris,

The Department of Ecology appreciates EPA's cooperation on December 18, 2018, in



extending our review period to February 1, 2019 for consideration of 401 certification for the nine draft individual permits for federal hydroelectric generating facilities on the Columbia and Lower Snake Rivers. After further review, we will initiate the required public notice and comment period of our draft 401 certifications the week of January 28, 2019 for the facilities and the associated draft NPDES permits EPA has developed and submitted to us.

This means that we will finalize the 401 certifications for the nine facilities following our formal public review period and therefore require time beyond February 1, 2019, to complete our state process. Ecology is not waiving our right to certify, but will need additional time to ensure the state's requirements for public review and comment process are met.

Please confirm EPA's agreement to allow additional time for Ecology to meet state processes and extend our deadline to February 28, 2019.

Thank you,

Maia Bellon, Director  
Washington State Department of Ecology

**Public Notice of Draft Federal Permits for State of Washington  
401 Water Quality Certification**

**Project Name:** Nine Federal Dams on the  
Columbia and Snake Rivers

Ecology will review the draft permits and activities pursuant to Section 401 of the Clean Water Act, and with applicable provisions of State water pollution control laws.

**Requestor:** U.S. EPA

**Project Location:** Columbia and Snake Rivers

Ecology is requesting comments from the public, state and local agencies, tribes, and other interested parties to evaluate the impacts of each draft permit and activity.

**Project Description:** U.S. EPA proposes to issue National Pollutant Discharge Elimination System (NPDES) permits to nine federal dams and requests state 401 water quality certification.

Conventional mail or e-mail comments on this public notice will be accepted and made part of the record.

**Public Notice Date:** January 30, 2019

**Comment Period Ends:** February 19, 2019

**Send comments to:**

Department of Ecology  
Water Quality Program  
Eleanor Ott, PE  
Post Office Box 47600  
Olympia, Washington 98504

**Request information is available on Ecology's Federal Permit Website:**  
<https://ecology.wa.gov/401-and-CZM-public-notice>

*To obtain a hard copy of the request information, please call 360-407-6433.*

- or -

**Online:** <http://ws.ecology.commentinput.com/?id=ix2pY>

**Attachment 5 - Enclosures for February 5, 2019 Letter from Ecology**



STATE OF WASHINGTON

## DEPARTMENT OF ECOLOGY

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### PUBLIC NOTICE

#### **Announcing Draft Permits for Nine Federal Dams on the Columbia and Snake Rivers Request for State Certification for Review and Comment**

##### **Proposed Permits**

The United States Environmental Protection Agency requested Washington State Department of Ecology (Ecology) Clean Water Act (CWA) Section 401 certification on December 19, 2018 for the following draft permits:

- Ice Harbor Lock and Dam, NPDES Permit No. WA0026816
- Lower Monumental Lock and Dam, NPDES Permit No. WA0026808
- Little Goose Lock and Dam, NPDES Permit No. WA0026786
- Lower Granite Lock and Dam, NPDES Permit No. WA0026794
- Bonneville Project, NPDES Permit No. WA0026778
- The Dalles Lock and Dam, NPDES Permit No. WA0026701
- John Day Project, NPDES Permit No. WA0026832
- McNary Lock and Dam, NPDES Permit No. WA0026824
- Grand Coulee Dam, NPDES Permit No. WA0026867

The United States Army Corps of Engineers (Corps) operates eight of the dams and the United States Bureau of Reclamation operates the Grand Coulee Dam. State and Federal water quality statutes and regulations do not allow the discharge of pollutants to waters of the state without permit coverage.

##### **Purpose of the Permits**

The nine federal National Pollutant Discharge Elimination System (NPDES) permits would authorize discharges from cooling water, equipment, floor drains, sumps, facility maintenance water, and other miscellaneous discharges.

##### **Purpose of the 401 Certifications**

Section 401 of the CWA provides that the federal government may not issue a permit relating to any activity which may result in any discharge into the navigable waters until a certification is granted or waived by the state in which the discharge originates, or will originate.

The state certification evaluates whether the discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 of the CWA and appropriate requirements of state law. Ecology will review the draft permits pursuant to Section 401 of the CWA, and with applicable provisions of State water pollution control laws.



**Copies of the Draft Permits**

You may request copies of the documents from EPA staff, Jenny Wu at [Wu.Jennifer@epa.gov](mailto:Wu.Jennifer@epa.gov) or (206) 553-1855.

**Ecology Contact**

[Eleanor Ott, PE](#)

Washington State Department of Ecology

PO Box 47600

Olympia, WA 98504-7600

Telephone: (360) 407-6433

Email: [eleanor.ott@ecy.wa.gov](mailto:eleanor.ott@ecy.wa.gov)

**Submitting Written Comments**

Ecology is requesting comments from the public, state and local agencies, tribes, and other interested parties on EPA's request, in relation to water pollution control considerations. Ecology will accept written comments until 11:59 PM, February 19, 2019. Ecology prefers comments be submitted online or in a letter format mailed directly to Ecology.

**Submit comments online:** <http://ws.ecology.commentinput.com/?id=ix2pY>  
(preferred method)

**Submit comments by mail to:** Eleanor Ott, PE  
Washington State Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

You must provide comments before 11:59 PM, February 19, 2019. Written comments must be postmarked no later than 11:59 PM, February 19, 2019.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

OFFICE OF  
WATER AND WATERSHEDS

FEB 01 2019

Ms. Heather R. Bartlett  
Water Quality Program Manager  
Washington Department of Ecology  
PO Box 47600  
Olympia, Washington 98504-7600

Re: Withdrawal of Request for Clean Water Act Section 401 Certifications of NPDES Draft Permits

Dear Ms. Bartlett:

With this letter, the U.S. Environmental Protection Agency is withdrawing our requests of the Washington Department of Ecology (Ecology) for certification under Section 401 of the Clean Water Act of the draft NPDES permits for the following nine federal hydroelectric generating facilities in Washington:

Lower Columbia River Hydroelectric Generating Facilities

Bonneville Project, NPDES Permit No. WA0026778  
The Dalles Lock and Dam, NPDES Permit No. WA0026701  
John Day Project, NPDES Permit No. WA0026832  
McNary Lock and Dam, NPDES Permit No. WA0026824

Lower Snake River Hydroelectric Generating Facilities

Ice Harbor Lock and Dam, NPDES Permit No. WA0026816  
Lower Monumental Lock and Dam, NPDES Permit No. WA0026808  
Little Goose Lock and Dam, NPDES Permit No. WA0026786  
Lower Granite Lock and Dam, NPDES Permit No. WA0026794

Grand Coulee Dam, NPDES Permit No. WA0026867

The EPA sent the preliminary draft NPDES permit documents and requested Ecology's Clean Water Act 401 certification on the following dates:

Lower Columbia River Hydroelectric Generating Facilities – September 19, 2018  
Lower Snake River Hydroelectric Generating Facilities – September 20, 2018  
Grand Coulee Dam – October 4, 2018

Please return to us the materials that we provided with our certification requests. When we determine that a renewed request for water quality certification is appropriate, we will be in further communication with appropriately updated materials. If you have any questions on this matter, please do not hesitate to [contact me at \(206\) 553-1855](#).

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel D. Opalski".

Daniel D. Opalski, Director  
Office Water and Watersheds

cc: Ellie Ott, Washington Department of Ecology (via email)  
Vince McGowan, Washington Department of Ecology (via email)





STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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February 28, 2019

Daniel Opalski, Director  
Office of Water and Watersheds  
United States Environmental Protection Agency - Region 10  
1200 Sixth Avenue, Suite 155, OWW  
Seattle, WA 98101

RE: Clean Water Act Section 401 Certification for  
Nine Federal Dams on the Columbia and Snake Rivers

Dear Director Opalski:

Thank you for your letter on February 15, 2019 clarifying that the U.S. Environmental Protection Agency (EPA) intends to reapply to the Washington State Department of Ecology (Ecology) for Clean Water Act (CWA) Section 401 certifications for the nine federal dams on the Columbia and Snake rivers. Your letter states that EPA will submit a new request for certification after completing further internal review.

We appreciate the clarification that EPA does intend to request Section 401 certifications, as your withdrawal was unexpected. We have been engaged in this process since receiving the first draft National Pollutant Discharge Elimination System (NPDES) permits for the nine federal dams from EPA on September 19, 2018. On October 19, 2018, EPA requested that Ecology provide Section 401 certifications for the dams by December 18, 2018. On December 7, 2018, Ecology requested a 45-day extension from EPA that you granted, extending the certification deadline to February 1, 2019.

On January 25, 2019, during the partial federal government shutdown, Ecology requested a second extension to allow time to complete our required public notice and comment period. On January 29, 2019, after EPA staff returned to work, Ecology received your written approval of an extension. This extended the certification deadline to February 28, 2019.

Ecology initiated a public notice and comment process on January 30, 2019. On February 1, 2019, EPA notified Ecology that EPA was no longer seeking Section 401 certification for the dams. As your notification came during our public process, our comment period remained open. The comment period ended on February 19, 2019. The comments we received are available here: <http://ws.ecology.commentinput.com/?id=ix2pY>.



Daniel Opalski  
February 28, 2019  
Page 2

The majority of comments focus on the importance of ensuring all discharges from the dams meet state surface water quality standards. In particular, temperature was raised as a key concern to address, due to the importance of temperature in protecting and rebuilding salmon populations in the Columbia Basin and in achieving our state's recovery goals for salmon and Southern Resident orca recovery.

By your February 1, 2019 letter to me, Ecology considers your request for certification to have been officially withdrawn. Your February 15, 2019 letter indicates that EPA will request Section 401 certification after EPA completes internal review and updates the preliminary draft permits. At that point, EPA will need to submit a new request for Section 401 certification, which will start a new review period for Ecology under Section 401 of the CWA.

We interpret from your verbal communications with us that completing this work is a priority for EPA. We would value hearing from EPA the timeframe for a new request. Ecology will be ready to evaluate the application and the draft NPDES permits, and be prepared to issue or deny the certification at that time. Be advised that state law requires us to complete a new public review and comment process on the new request.

This letter **shall not** be considered a waiver of Washington State's Section 401 certification authority. In the event that EPA decides to move forward with any of the permits referenced in your October 19, 2018 letter without submitting a new request for certification to Ecology, this letter is a denial of the Section 401 certifications you requested.

If you have any questions or would like to discuss these matters further, please contact Eleanor Ott, PE at (360) 407-6433 or [eleanor.ott@ecy.wa.gov](mailto:eleanor.ott@ecy.wa.gov).

Sincerely,



Heather R. Bartlett  
Department of Ecology  
Water Quality Program Manager

Enclosure

cc: Jennifer Wu, Permit Writer, Region 10 EPA  
Susan Poulson, NPDES Permits Lead, Region 10 EPA  
Loree Randall, Department of Ecology, SEA Program  
Vincent McGowan, PE, Section Manager





## Environment

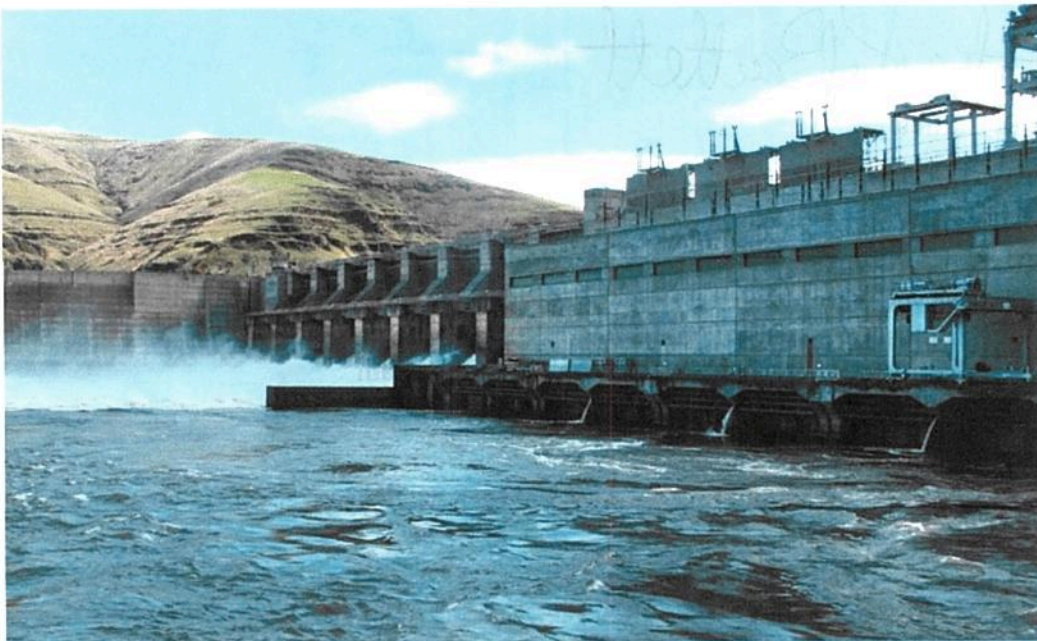
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Thousands of light-rail passengers face detours as crews link Seattle, Eastside tracks

# EPA ices Washington state's effort to regulate hot water in Columbia, Snake rivers



Originally published February 6, 2019 at 2:01 pm | Updated February 7, 2019 at 1:00 pm



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Water moves through a spillway of the Lower Granite Dam on the Snake River near Almota, Whitman County. Summer temperatures in portions of the Columbia and... (Nicholas K. Geranios / AP) **More** ✓

**The EPA had issued draft permits to the state Ecology department for review, but yanked them last week -- effectively stopping the state's effort to regulate water quality at the federal dams.**

By [Lynda V. Mapes](#) 

*Seattle Times environment reporter*






A move to [initiate state regulation](#) of salmon-killing hot water in the Columbia and Snake rivers has been iced by the Trump Administration — for now.

The state Department of Ecology [has initiated a public comment process](#) on draft permits that would enable it to enforce state water-quality standards at federal dams, including temperature.

But on Friday night the U.S. Environmental Protection Agency wrote to the department to announce it is yanking the draft permits that were under review. That has the effect of stopping, at least for now, Ecology's effort to enforce its water quality standards at federal dams for the first time.

Ecology was surprised by the move and is seeking more information — and not backing down.

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“I’m surprised at EPA’s unusual request,” said Maia Bellon, director of Ecology, in an email to the Seattle Times. “We’ve asked EPA to explain their motives, but I am concerned that this may signal the federal government backing away from a commitment to protect the water quality of the Columbia and Snake rivers. Washington state has no intention of abandoning our rivers and our salmon. We have no plans to halt our current public comment period.”

Mark A. MacIntyre, a spokesperson for U.S. EPA Region 10, said in a statement Thursday that the draft permits were withdrawn because they needed “additional internal review.”

“We fully intend to reinitiate our requests for water quality certification after we have completed our internal review and updated the preliminary draft permits, as appropriate,” the statement said.

Gov. Jay Inslee wants Ecology to stand firm. “...the governor is fully committed to partnering with Ecology to ensure both federal and state clean water standards are upheld and enforced,” Tara Lee, spokeswoman for the governor wrote in an email. “The Trump Administration must do its part to protect our state’s salmon and waters.”

The issue first arose when the nonprofit [Columbia Riverkeeper](#) sued the U.S. Army Corps of Engineers over oil discharges into the Columbia and Snake rivers from federal dams. In a legal settlement, the Corps was required to seek pollution discharge permits from the EPA. Draft permits for nine federal dams were issued by EPA, and were before Ecology for review until last Friday night.

Under the Clean Water Act, the state has the option to invoke its authority to condition the federal permits on also meeting all of its state water quality standards. It was former Washington Attorney General and later Gov. Christine Gregoire who fought all the way to the U.S. Supreme Court to secure the state’s ability under the Clean Water Act to assert the state’s standards in its waters.

At stake in this situation is the state’s ability to act on a range of issues that directly affect salmon survival in the Columbia and Snake, including water temperature. During the summer, both rivers in places routinely exceed the state’s uppermost temperature standard of 68 degrees — often for weeks at a time. That is because of the cumulative warming caused by climate change since 1960, combined with the effects of the dams, a separate draft EPA analysis has determined.

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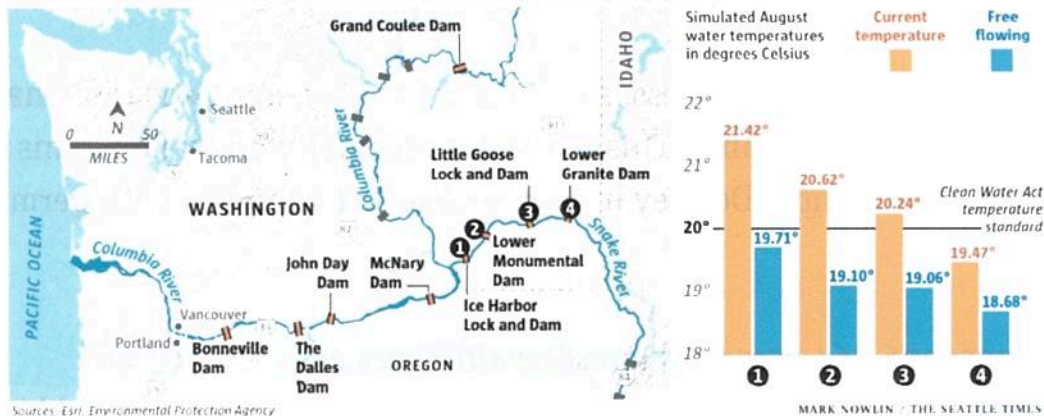
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<https://www.seattletimes.com/seattle-news/environment/epa-ices-washington-states-effort-to-regulate-hot-water-in-columbia-snake-rivers/>



## State pursues new role at federal dams

Summer water temperatures in the Columbia and Snake rivers often exceed the uppermost standard for Washington waters under the Clean Water Act because of the combined effect of dams and climate change.



But in a [letter from Daniel Opalski](#), director of the EPA office of Water and Watersheds, the agency asked for return of its materials and the draft permits they support, and stated the agency would be back in touch “when we determine that a renewed request for water quality certification is appropriate.” No time frame was provided as to re-initiating the process to issue the pollution-discharge permits.

## Sign up for Evening Brief

*Delivered weeknights, this email newsletter gives you a quick recap of the day's top stories and need-to-know news, as well as intriguing photos and topics to spark conversation as you wind down from your day.*

Brett VandenHeuval, executive director of Columbia Riverkeeper, said he hopes the state will stick to its guns on improving water quality in the Columbia and Snake.

“It feels like the Trump Administration is trying to bully the state of Washington, and Washington is not easily bullied,” VandenHeuval said. “They don’t like Ecology saying they are going to assert some authority and they (EPA) are taking their ball and going home.”

In her response to EPA sent Feb. 5, Heather Bartlett, manager for Ecology’s Water

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Further, she wrote, the department is not waiving its authority to condition the permits, so the state can regulate water quality standards at the dams.

What happens next is anyone's guess, said Colleen Keltz, communication manager for Ecology's water quality program. "This is all very unusual, and by no means following a regular process," Keltz said. "Do they intend to come back quickly with permits or not?"

**Lynda V. Mapes:** 206-464-2515 or [lmapes@seattletimes.com](mailto:lmapes@seattletimes.com); on Twitter: [@LyndaVMapes](https://twitter.com/LyndaVMapes). Lynda specializes in coverage of the environment, natural history, and Native American tribes.

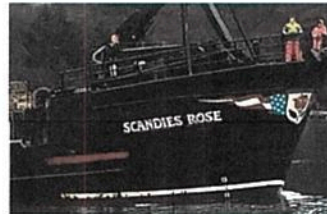
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